

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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BARLEY TRUCKING AND  
EXCAVATING, INC.,

Plaintiff,

v.

Case No. 07-C-779

CITY OF OCONTO,

Defendant.

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**ORDER**

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Upon entry of judgment dismissing the principal claims at issue in this case, I ordered Defendant City of Oconto to show cause why its remaining claim against a third-party defendant, over which the court had supplemental jurisdiction, should not be dismissed without prejudice. It has responded that it intends to ask the court to retain jurisdiction and, in any event, it may be premature to reach this question because the third-party defendant has filed for bankruptcy. The Plaintiff has also responded, and it suggests that the bankruptcy is a non-issue that should not preclude immediate dismissal without prejudice.

In light of the assertions made by the City of Oconto, I will hold the matter in abeyance. The issue seems largely academic, and there is no cause for haste, especially as it is the City's own claim at issue. The City is directed to provide an update to the Court in thirty days as to the status of its position and the bankruptcy.

**SO ORDERED** this 24th day of November, 2008.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge